

Irvin, George

Appl. No. 10/626,227

Filed: July 24, 2003

Atty. Docket No. 21520-RA

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REMARKS/ARGUMENTS**Election/Restriction**

Examiner Fastovsky has required restriction to one of three inventions, namely, Invention I, reading on claims 1-17, Invention II, reading on claims 18-19, and Invention III, reading on claim 20. Examiner has classified the present application in class 219 (Electric Heating).

Applicant, provisionally elects to prosecute Invention I, Claims 1-17, with traverse. There is no change to inventorship.

The present invention utilizes no electricity and Applicant respectfully asserts that it is mis-classified. Claims 1-20 read on a non-asphyxiating heating means. While an electric device would fall within such a claim, other devices utilizing gas are described in the specification, wherein page 10, lines 8-11 sets forth exemplars of this type of heater. Accordingly, Applicant expects that upon reclassification, the present invention will no longer require restriction.

Additionally, Applicant notes that Examiner's reason for restriction number 4 cites that Invention I does not require a means for seating. Applicant respectfully notes that claim 20 includes a means for seating or sitting and claims 3 and 10-11 disclose a means for seating and/or a chair, which is a means for sitting. Thus, claim 20 would more properly be included within Invention I.

Applicant further submits that Examiner's reason number 2 for restriction between Inventions I and II, namely, that "the method of Group II is used to partially enclose a user", does not describe a distinction between a process practiced by another apparatus or by hand, it merely restates the function of the process itself as set forth in claim 18.

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Applicant further submits that Examiner's reason for restriction number 3 between Inventions II and III, namely, that "the method of group II does not require means for seating", does not describe an apparatus that is materially different for the purposes of classification, the addition of a means for seating being the only difference, and Applicant asserts that said addition is not material from the standpoint of classification.

CONCLUSION

Applicant respectfully believes the present application is now in condition for allowance and requests reconsideration thereof. If Examiner disagrees with Applicant's position and would like to receive further clarifying explanations of the significance of Applicant's invention, it is respectfully requested that Applicant be granted a telephone interview with Examiner.

Otherwise, should the Examiner have any questions regarding this submission, he is invited to contact the undersigned counsel at the telephone number below.

Respectfully submitted, this 3rd day of June, 2004,



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